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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/707,571	11/06/2000	Michael Patrick Mastro	JSF 35.002	9664

7590

03/12/2004

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EXAMINER

ELAHEE, MDS

ART UNIT

PAPER NUMBER

2645

DATE MAILED: 03/12/2004

6

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/707,571

Applicant(s)

MASTRO, MICHAEL PATRICK

Examiner

Md S Elahee

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 33-40 is/are pending in the application.
- 4a) Of the above claim(s) 1-32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 33-40 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

DETAILED ACTION

Response to Amendment

1. This action is responsive to an amendment filed 12/08/03. Claims 33-40 are pending. Claims 1-32 have been cancelled.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 33, 35, 39 and 40 are rejected under 35 U.S.C. 102(e) as being anticipated by Gupton (U.S. Pub. No. 2002/0012426).

Regarding claim 33, Gupton teaches establishing a non-solicitation database of a plurality of subscriber telephone lines (abstract; page 1, paragraph 0012, page 2, paragraph 0025; 'non-solicitation database' reads on the claim 'database subscription base').

Gupton further teaches obtaining a calling party number for an incoming call to a selected phone line of a subscriber in the non-solicitation database before the call is allowed to ring through to the selected phone line (page 2, paragraph 0027; 'number'

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reads on the claim 'identification' and 'non-solicitation database' reads on the claim 'database subscription base').

Gupton further teaches using the calling party number and an application module to determine whether the incoming call should be connected to the selected phone line (page 2, paragraph 0027; 'number' reads on the claim 'identification' and 'application module' reads on the claim 'anti-telemarketing program').

Gupton further teaches querying the calling party number with a solicitor database containing a plurality of telemarketing telephone numbers to determine if there is a match between the calling party number and any of the plurality of telemarketing telephone numbers and then: if there is a match, blocking the phone call other than completing the call to the selected phone line (fig.2; pages 2, 3, paragraphs 0024, 0027, 0029; 'querying' reads on the claim 'comparing', 'number' reads on the claim 'identification', 'solicitor database' reads on the claim 'telemarketing database' and 'blocking the phone call' reads on the claim 'taking a preselected action'). (Note, the claim recites a simple alternative i.e., "if there is a match" or "if there is no match"; examiner only needs to find one of the claimed limitation).

Regarding claim 35, Gupton teaches that the solicitor database (i.e., telemarketing database) includes directory phone numbers of telephone terminals (i.e., telephone numbers) from known soliciting and telemarketing organizations (i.e., more than one area codes) (fig. 1; page 1, paragraph 0024).

Regarding claims 39 and 40, Gupton teaches a network telephony system (fig.1).

Gupton further teaches a non-solicitation database of a plurality of subscriber telephone lines connected by the network telephony system (abstract; fig.1; page 1,

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paragraph 0012, page 2, paragraph 0025; 'non-solicitation database' reads on the claim 'subscription base').

Gupton further teaches a solicitor database (i.e., logical telemarketing database) containing a plurality of directory phone numbers of telephone terminals of soliciting and telemarketing organizations (i.e., telemarketing phone lines from at least two area codes) (fig. 1; page 1, paragraph 0024).

Gupton further teaches that an application module allows a subscriber to identify a calling party number as a telemarketing telephone number (i.e., calling party identification as a potential telemarketing phone line) (page 3, paragraph 0033; 'application module' reads on the claim 'subscriber telemarketing identification mechanism').

Gupton further teaches that an application module (i.e., telemarketing identification) that places the telemarketing telephone number in the solicitor database as one of the plurality of telemarketing phone line once more than one subscriber identifies the telemarketing telephone number (i.e., potential telemarketing phone line) as a telemarketing telephone number (i.e., potential telemarketing phone line) (page 2, paragraph 0025, pages 3, 4, paragraph 0036; 'place the telemarketing telephone number in the solicitor database' reads on the claim 'adds the potential telemarketing phone line to the logical telemarketing database if a preselected criterion for addition is met').

Gupton further teaches blocking the phone call other than completing a call from one of the plurality of telemarketing phone lines to one of the plurality of subscriber phone lines when an incoming call to any of the plurality of subscriber phone lines is identified as being from any of the plurality of telemarketing phone lines and inherently

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an override condition is not set (abstract; pages 2, 3, paragraph 0029, pages 3, 4, paragraph 0036; 'blocking the phone call' reads on the claim 'a control system that takes a preselected action').

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 34 is rejected under 35 U.S.C. 103(a) as being unpatentable over Gupton (U.S. Pub. No. 2002/0012426) and in view of Council et al. (U.S. Patent No. 6,259,779).

Regarding claim 34, Gupton fails to teach "numbers in said portion are then again added to the telemarketing database once the preselected criterion for addition has been met". Council teaches that numbers in the portion are then again added to the list (i.e., telemarketing database) once the preselected criterion for addition has been met (col.10, lines 19-62). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Gupton to allow numbers in the portion are then again added to the telemarketing database once the preselected criterion for addition has been met as taught by Council. The motivation for the modification is to have the override condition in order to update the subscriber's list so that the fee that was charged to the caller is to be deleted.

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6. Claim 36-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gupton (U.S. Pub. No. 2002/0012426) and in view of Wurster et al. (U.S. Patent No. 6,459,780).

Regarding claim 36, Gupton fails to teach “a party other than the subscriber or the caller can set the override condition”. Wurster teaches that a caller can enter a call screening override code (col.7, lines 64, 65; ‘caller’ reads on the claim ‘party other than the subscriber’ and ‘enter a call screening override code’ reads on the claim ‘set the override condition’). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Gupton to allow a party other than the subscriber or the caller to set the override condition as taught by Wurster. The motivation for the modification is to have doing so in order to connect the caller to the called party.

Regarding claim 37, Gupton teaches that allowing the subscriber to access a customized subscriber database via a computer and wherein the customized subscriber database is generated, at least in part, from the solicitor database (page 2, paragraph 0027, pages 3, 4, paragraph 0036; ‘solicitor database’ reads on the claim ‘telemarketing database’,).

Gupton fails to teach “selectively vary one or more override conditions for at least one telephone number contained within the customized subscriber database”. Wurster teaches that selectively vary a call screening override code for at least one telephone number contained within the customized subscriber database (col.5, lines 43-46, col.6, lines 45-54, col.7, lines 64-67, col.8, lines 1-9; ‘a call screening override code’ reads on the claim ‘one or more override conditions’). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Gupton to

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selectively vary one or more override conditions for at least one telephone number as taught by Wurster. The motivation for the modification is to have doing so in order to connect the caller to the called party.

Regarding claim 38, Gupton fails to teach "the subscriber is allowed to selectively vary an override condition for a selected group of telephone numbers". Wurster teaches that the subscriber is allowed to selectively vary an override condition for a selected group of telephone numbers (col.5, lines 43-46, col.6, lines 45-54, col.7, lines 64-67, col.8, lines 1-9; 'a call screening override code' reads on the claim 'one or more override conditions'). Thus, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Gupton to selectively vary an override condition for a selected group of telephone numbers as taught by Wurster. The motivation for the modification is to have doing so in order to connect the caller to the called party whenever required.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Heiner (U.S. Patent 6,370,235) teach Unsolicited phone call removal system. Beghtol et al. (U.S. Patent 6,253,075) teach Method and apparatus for incoming call rejection.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Md S Elahee whose telephone number is (703) 305-4822. The examiner can normally be reached on Mon to Fri from 8:30am to 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (703) 305-4895. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9314 for regular communications and (703) 872-9314 for After Final communications.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [shafiulalam.elahae@uspto.gov].

All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35

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U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4750.

Any response to this action should be mailed to:

Box AF

Commissioner of Patents and Trademarks

Washington, DC 20231

or faxed to:

(703) 308-5397(for formal communications intended for entry; please mark

"EXPEDITED

PROCEDURE")

(703)**306-5406**(for informal or draft communications, such as proposed amendments

to be

discussed at an interview; please label such communications "PROPOSED" or "DRAFT")

or hand-carried to:

Crystal Park Two

2121 Crystal Drive

Arlington, VA.

Sixth Floor (Receptionist)

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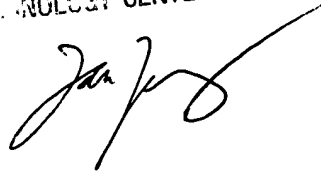
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M.E.

MD SHAFIUL ALAM ELAHEE

March 5, 2004

FAN TSANG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

A handwritten signature in black ink, appearing to read 'Fan Tsang', is written over the printed name and title.